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ATTORNEYS FOR RESPONDENTS

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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF ARIZONA**

10 Reynard Gordon,

CV-18-00030-TUC-CKJ (JR)

11 Petitioner,

12 **RESPONSE TO DEMAND TO**
13 **PRODUCE DOCUMENTS.**

-vs-

14 Charles L. Ryan, et al.,

15 Respondents.

16
17 Petitioner Reynard Gordon filed a demand for the production of documents
18 seeking the following:

- 19 1. Bank records indicating that he stole \$90,000 from the victim;
- 20 2. The identity of the sheriffs involved in a June 23, 2016 attempt to contact
the victim and a copy of their report;
- 21 3. A copy of the sheriff's report describing that Gordon displayed a firearm;
- 22 4. A copy of any of his co-defendant's statements and her qualifications to
make such statements;
- 23 5. The identity of the doctor who evaluated the victim and the doctor's
"credentials" and gender of that doctor;
- 24 6. A copy of the search warrant executed on June 29, 2016 on the victim's
residence;

- 1 7. Bank records that demonstrate that he cashed checks against the victim's
 2 account;
 3 8. A copy of the power of attorney he possessed for the victim; and
 4 9. The identity of the government to which Gordon has stated that he is
 5 disassociated from.

6 (Dkt. 17.) Gordon states only that he has the "right to review such documents"
 7 under the "rules of discovery." (*Id.* at 2, 7.)

8 All of the documents requested by Gordon relate to Respondents' recital of
 9 the case summary contained in the adult probation disposition sheet created to
 10 assist the state trial court judge in sentencing. Respondents attached the adult
 11 probation disposition sheet that was the source of that information to their limited
 12 answer as Exhibit A.

13 Respondents respectfully oppose Gordon's motion. Respondents have
 14 already served Gordon with copies of every document they have filed in this Court.
 15 To the extent Gordon is requesting copies of anything else, there "is no federal
 16 right, constitutional or otherwise, to discovery in habeas proceedings as a general
 17 matter." *Campbell v. Blodgett*, 982 F.2d 1356, 1358 (9th Cir. 1993) (citing *Harris*
 18 *v. Nelson*, 394 U.S. 286, 296 (1969)); *see also Bracy v. Gramley*, 520 U.S. 899,
 19 904 (1997) ("A habeas petitioner, unlike the usual civil litigant in federal court, is
 20 not entitled to discovery as a matter of ordinary course."); *Bittaker v. Woodford*,
 21 331 F.3d 715, 728 (9th Cir. 2003) ("Parties in habeas cases, unlike those in
 22 ordinary civil cases, have no right to discovery.").

23 Although this Court "may, for good cause shown, authorize a party to
 24 conduct discovery under the Federal Rules of Civil Procedure, and may limit the
 25 extent of discovery," Rule 6(a), Rules Governing § 2254 Cases, habeas corpus
 26 review "was never meant to be a fishing expedition for habeas petitioners to
 27 'explore their case in search of its existence.'" *Rich v. Calderon*, 187 F.3d 1064,
 28 1067 (9th Cir. 1999) (quoting *Calderon v. United States Dist. Ct. (Nicolaus)*, 98

¹ F.3d 1102, 1106 (9th Cir. 1996)). Habeas Rule 6(a) provides, in pertinent part:

(a) Leave of Court Required. A judge may, for good cause, authorize a party to conduct discovery under the Federal Rules of Civil Procedure and may limit the extent of discovery. If necessary for effective discovery, the judge must appoint an attorney for a petitioner who qualifies to have counsel appointed under 18 U.S.C. § 3006A.

(b) Requesting Discovery. A party requesting discovery must provide reasons for the request. The request must also include any proposed interrogatories and requests for admission, and must specify any requested documents.

8 Gordon has not stated any reason for his request and has not demonstrated good
9 cause for the production of documents. Nor is it apparent how the documents he
10 requests are relevant to Respondents' argument the habeas petition should be
11 stayed or dismissed without prejudice because all of Gordon's claims are
12 unexhausted but not yet procedurally defaulted.

13 In sum, Gordon has not demonstrated good cause or a need for additional
14 documents in order to reply to Respondent's limited answer and this Court should
15 deny his request for production of documents.

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17 RESPECTFULLY SUBMITTED this 16th day of August, 2018.

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Mark Brnovich
Attorney General

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Joseph T. Maziarz
Chief Counsel

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/s/Tanja K. Kelly
Assistant Attorney General
Attorneys for Respondents

1 I hereby certify that on August 16, 2018, I served the attached document by mail
2 on the following, who are not registered participants of the ECF System.

3 Petitioner, Pro Se
4 Reynard:Gordon # 324635
5 A.S.P.C. Graham Unit
6 896 South Cook Road
7 Safford, Arizona 85546

8 /s/L. Fielding _____

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